

Check against delivery



Statement of the
Special Rapporteur on the Situation of Human Rights in Myanmar
Professor Paulo Sérgio Pinheiro

Human Rights Council
7th session
March 2008

Mr. President,

Ladies and Gentlemen,

Today, I am pleased to present to this distinguished forum two reports, my annual report and the follow-up mission report.

The first one builds on my previous thematic reports and focuses on the situation of human rights in Myanmar during the period February 2007 to February 2008.

The second report is a follow-up to my mission report presented to you last December. Following your instructions in resolution 6/33, I submitted a request for a second visit, which was not honoured by the Government.

My annual report highlights signs of continuous deterioration in the economic and social sectors, which aggravate further the humanitarian and the human rights situation in the country.

The increased militarization in rural areas has contributed to the impoverishment of villagers and to the increase in the number of internally displaced persons. One in three children under the age of five is suffering from malnutrition, and less than 50% of children are able to complete their primary education. It would be important to note that WFP is expanding its food assistance activities.

While with assistance of United Nations agencies, and NGOs, the public health sector has noted progress in combating malaria, tuberculosis and HIV/AIDS, the delivery of disease control services, particularly in remote, hard-to-reach townships, including those in the border areas remains a serious challenge. The latest estimates from WHO and UNAIDS note that in 2007 a total of 242,000 people in Myanmar lived with HIV/AIDS. The Government continues to enforce restrictions on the operations of international humanitarian organizations working in the country, impacting their ability to deliver assistance efficiently.

As I have been stating during my seven-year tenure of the mandate, despite the shortcomings of the social policy of the Government, humanitarian assistance cannot be hostage of politics and the population of Myanmar has the right to the same level of assistance from the international community that other countries in the region receive.

I would like to welcome the conclusion in February 2007 of a Supplementary Understanding between the ILO and the Government of Myanmar to establish a mechanism for victims of forced labour to seek redress and note that some of the cases had been resolved successfully. However, despite the apparent no longer requisition of labour for major national infrastructure projects, forced labour continues to be widely imposed by local authorities for public infrastructure and services work. The situation remains most serious in border areas, where there is ongoing insecurity and a large army presence. In these areas, the army continues to impose forced labour on a widespread and systematic basis for a range of military and infrastructure-related purposes, including the use of civilians as porters for the army during patrols and military operations. Major obstacles to the elimination of forced labour include the apparent lack of political will to seriously address the problem or to develop acceptable alternatives, and the prevailing impunity for the government officials and army officers responsible.

Land confiscation, natural resources and its relations with forced displacement and migration remain a crucial area requiring deep analysis, research and redress in the future. There is an increasing recognition of the need to document issues related to land and natural resources management in Myanmar. Arbitrarily land confiscations throughout the country, the impact of the big scale development projects in the lands of ethnic minorities and the dramatic consequences of the policy on extraction of natural resources are regrettably added human rights challenges people of Myanmar are confronted with.

Mr. President,

Political changes are being announced to take place in Myanmar, including the future adoption of a new constitution that will redefine the political structures of the country. Whether these changes will be positive depends, among others, on the ease of an inclusive political transition of the opposition political parties and various ethnic groups in those political changes in accordance with international human rights standards and principles.

The announcement made early in February this year by the Government on the holding of a referendum in May 2008 on the new constitution, drafted with the exclusion of any participation of the political parties in the opposition, and multiparty democratic elections in 2010 has raised a number of expectations and doubts.

Severe restrictions on the freedom of movement, expression, association and assembly continue to be reported. Particularly, most worrisome are the allegations of cases of arrest and harassment of individuals accused of communicating information to the foreign media or to organizations outside the country. One latest example as such, is the reported arrests of three civilians for allegedly not voicing in favour of the referendum, who were later released on bail.

I am also concerned about the numerous accounts of political activists, human rights defenders and journalists being searched and detained for reasons including possession of copies of my previous report to the Council. I am appalled that official reports commissioned by this Council to the Special Rapporteurs may be used as criminal evidence by the Government of Myanmar against human rights defenders and democracy activists.

The Unlawful Associations Act of 1908 as amended prohibiting unauthorized outdoor assemblies of more than five persons is reportedly enforced selectively. The political parties and social organizations that are allowed to exist have been denied the ability to function freely and in security. The authorities continue targeting political opponents. According to reliable sources some 1,850 political prisoners are behind the bars.

For a democracy to be sustainable it has to be inclusive and representative of the views of all the people in Myanmar. No referendum or elections can be fair, no political transition to democracy can be effective, without the release of political prisoners, the authorization for all political parties to operate and the protection of the basic civil and political freedoms, all inexistent in Myanmar. For this reason, I would like to join Secretary-General Ban Ki-Moon in his call to the Government of Myanmar to engage

without delay in a substantive time-bound dialogue with, among others, Ms. Daw Aung San Syy Kyi.

Mr. President,

In this context, I would like to note that the establishment by the Secretary-General of 'Group of Friends' on Myanmar is an important effort by the international community to continue echoing its voice for immediate actions in the improvement of the human rights situation for the people of Myanmar. I have also observed with satisfaction that the United Nations system has established mechanisms to facilitate better communication among the political, humanitarian and human rights sectors to address the situation in Myanmar. In this context I welcome the recent visit of the Secretary-General's Special Adviser, Professor Ibrahim Gambari to the country.

At the regional level, efforts continue in order to implement the commitment to establish an ASEAN human rights body as stated in article 14 of the ASEAN Charter signed by the Heads of State in Singapore in November last year. This mechanism will provide a vehicle for ASEAN Member States and their partners to further encourage the Government of Myanmar to speed up democratic reforms with due respect for human rights.

Mr. President,

Following my visit to Myanmar in November last year, I informed you about my preliminary findings regarding the human rights implications of the violent crackdown on the peaceful demonstrators in September 2007. After seriously considering a number of testimonies, reports and other materials, I concluded that at least 31 people had been killed, that between 3,000 and 4,000 people had been arrested in September and October 2007 and that at least 74 cases of disappearances required as well serious investigations.

Since the end of my mission, I have routinely continued receiving information regarding arrests and detentions of human rights activists and individuals in connection with the peaceful demonstrations. In total, I have recoded information of 718 individuals who had been arrested in connection with the demonstrations who still remain reportedly arrested. This figure includes 93 individuals confirmed by the authorities during my visit.

During my discussions in the country with the Attorney General I expressed concern over long-term detentions without legal guarantees and also stressed that everyone has the right to a fair trial both in civil and criminal cases and that an effective protection of human rights depend on the access to competent courts that could administer justice. The ongoing arrest since September had not been reportedly carried out even in accordance with the national criminal procedure. At the time of finalization of my report, it was brought to my attention that 145 detainees had been charged under various laws while many others remain unlawfully detained including a number of monks.

In regard to the disappearances cases, I would like to inform you that from the 74 cases, 15 have been accounted for and in other 8 cases it has been found that the individuals were finally reported in detention. However, new information regarding additional cases has been brought to my attention. The number of cases until now amount at 75 individuals reportedly disappeared.

Regrettably, despite a number of efforts to engage with the authorities, I have not received further details regarding the number of killed during or in connections with the demonstrations.

The complete lack of cooperation and information on the investigations of the events occurred in September 2007 represent a compelling example of the challenges for the effective promotion and protection of human rights in the country. The promises that the Government of Myanmar makes to this Council are simply not being translated into actions.

As noted in my previous report my mission to the country could not be considered as a full-fledged-fact-finding mission, which would require independent access to all places and all people enabling me to verify the information collected. In my exchanges with the authorities requesting for a follow-up mission in compliance with your resolution 6/33, I have considered pertinent to stress the need to respect the minimum requirements for a trustable and independent assessment. I deeply regret not having had the chance to proceed with the follow-up mission before the end of my mandate because the Government of Myanmar did not allow the Special Rapporteur to visit the country, as you had requested.

Mr. President,

This is the last time that I address this distinguished forum in my capacity as the Special Rapporteur on Myanmar. I think that it is most regrettable that at the very end of my mandate I have to conclude informing you that the Government of Myanmar has not complied to any – with the exception of the invitation to the Special Rapporteur to visit the country in November 2007,,of the recommendations of the resolution of the General Assembly and of the two resolutions S-5/1 and 6/33 from this Council. I sincerely hope that the Human Rights Council will make Myanmar accountable for this flagrant neglect and disrespect to its decisions.

I would like to finish my statement with expressing my deepest gratitude to the Office of the High Commissioner for Human Rights for all its support to me in discharging my mandate; to the United Nations colleagues in the country for their tireless and professional work and to the hundreds of civil society organizations, research centers, scholars and individuals that so seriously have contributed during all these years to the serious effort of promoting and protecting the human rights of the people of Myanmar.

Finally, I want to pay tribute to all those in Myanmar who have fought and still fight to restore democracy in their country assuming extraordinary risks. We cannot betray the enormous hopes that they have in this Human Rights Council and its members.

Thank you